

REMARKS

In an Office Action dated 27 September 2005, the Examiner rejects claims 1-49 (All pending claims). In response to the Office Action, Applicants amend claims 3, 4, 7, 8, 11-14, 19, 20, 24, 25, 29, 30, 34, 35, 39, 40, 44, 45 48 and 49. Applicants also respectfully traverse the rejections. In light of the amendments and following arguments, Applicants respectfully request the rejections of the claims be removed and this application be allowed.

Applicants have amended the claims to correct typographical and editorial errors. No new matter has been added by these amendments.

In the Office Action, the Examiner rejects claim 1 under 35 U.S. C. §103 (a) as being unpatentable over the Admitted Prior Art (APA) in view of U. S. Patent application US 2002/0009066 A1 filed on behalf of Shimizu et al (Shimizu). In order to maintain a rejection the Examiner has the burden of providing evidence of prima facie obviousness. See MPEP §2143. See also In Re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In order to prove prima facie obviousness, the Examiner must provide evidence in the prior art of a motivation to combine or modify a reference, a reasonable expectation of success, and a teaching of each and every claimed element. Id. The Examiner has not provided teachings of each and every element or a proper motivation to combine the references.

Claim 1 recites “wherein said VSA packet includes a Vendor-Extended-Type field if said Vendor-Type field contains a predetermined value”. Neither the prior art nor Shimizu teaches this limitation. Instead, the admitted prior teaches that there are not

enough vendor type identifications using the standard vendor-type field. The admitted prior art does not include a Vendor-extended type field that provides more identifications for vendor types. Thus, the admitted prior art does not teach this limitation.

Furthermore, Shimizu does not teach a vendor-type extended field in the packet when a certain value is contained in the vendor type field. Instead, Shimizu teaches a binding request message that includes an extension type that is set to a permanent number of 38 if the home agent can receive extended messages otherwise the conventional protocol is used to communicate. This allows for information to be sent that allows the receiving device to read a Home Agent table to establish a connection. See Generally Figure 11 and page 7, paragraphs 120-124. In the claim, a vendor type field is set to a predetermined number to indicate an vendor type extend field is included in the payload of the packet. This allows the same packet set-up to be used to transmit this information without having to reconfigure every system in a network. Thus, Shimizu does not teach claim 1.

Since neither the prior art nor Shimizu teaches all of the elements of claim 1, the combination of the references does not teach all of the elements of claim 1. Thus, the Examiner has not provided a teaching of each and every element of the claim. Therefore, Applicants respectfully request that rejection of claim 1 be removed and claim 1 be allowed.

Even if the combination teaches each and every element, the Examiner has not provided a motivation to combine the references as required by case law and the MPEP.

See MPEP §2143. The Examiner is reminded that for a combination to be proper the proposed modification or combination cannot change the principle mode of operation of reference. See MPEP §2143.01. See also In re Ratti, 270 F.2d. 810 (CCPA 1959). The Examiner asserted that that one skilled in the art would modify the amended prior art with Shimizu to create an extension for vendor types. However, Shimizu does not do this. Instead, Shimizu teaches having an extension field set to a specific number to indicate that the packet is of a certain type for use by a home agent. Thus, one skilled in the art would have no such motivation as the resulting product would do what the Examiner asserts. Thus, the motivation to combine is improper and the rejection must be removed. Therefore, Applicants respectfully request that rejection of claim 1 be removed and claim 1 be allowed.

Claims 2-4 depend from claim 1. Thus, claims 2-4 are allowable for the same reasons claim 1. Thus, Applicants respectfully request that the rejections of claims 2-4 be removed and claims 2-4 be allowed.

The Examiner rejects claim 5 under 35 U.S.C. §102(a) as being anticipated by Shimizu. To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), cert. denied, 484 U.S. 1007 (1988). Moreover, the single source must disclose all of the claimed elements “arranged as in the claim.” *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). The **test for anticipation** is symmetrical to the test for infringement and has been stated as: “That which would literally infringe [a claim] if later in time anticipates if earlier than the date of invention.” *Richardson v. Suzuki*

Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *Connell v. Sears Roebuck & Co.*, 722 F.2d 1542, 1548, 220 U.S.P.Q. 1931, 1938 (Fed. Cir. 1983). **Missing elements** may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985). The Examiner has failed to provide a reference teaching each and every element of the claim.

Claim 5 recites “if an extended format VSA is desired, then generating an extended format VSA containing at least a Vendor-Type field having a predetermined value and a Vendor-Extended-Type field.” Shimizu does not teach a vender-type extended field in the packet when a certain value is contained in the vendor type field. Instead, Shimizu teaches a binding request message that includes an extension type that is set to a permanent number of 38 if the home agent can receive extended messages otherwise the conventional protocol is used to communicate. This allows for information to be sent that allows the receiving device to read a Home Agent table to establish a connection. See Generally Figure 11 and page 7, paragraphs 120-124. In claim 5, a vendor type field is set to a predetermined number to indicate a vendor type extend field is included in the payload of the packet. This allows the same packet set-up to be used to transmit this information without having to reconfigure every system in a network. Thus, Shimizu does not teach claim 5. Therefore, Applicants respectfully request that the rejection of claim 5 be removed and claim 5 be allowed.

Claims 6-8 depend from claim 5. Thus, claims 6-8 are allowable for at least the same reasons as claim 5. Therefore, Applicants respectfully request that the rejection of claims 6-8 be removed and claims 6-8 be allowed.

Claim 9 recites a program storage device storing instructions for performing the method claimed in claim 5. Thus, claim 9 is allowable for at least the same reasons as claim 5. Therefore, Applicants respectfully request that the rejection of claim 9 be removed and claim 9 be allowed.

Claims 10-15 depend from claim 9. Thus, claims 10-15 are allowable for at least the same reasons as claim 9. Therefore, Applicants respectfully request that the rejection of claims 10-15 be removed and claims 10-15 be allowed.

Claim 16 recites a method for performing a method for reading a packet produced by the method claimed in claim 5. Thus, claim 16 is allowable for at least the same reasons as claim 5. Therefore, Applicants respectfully request that the rejection of claim 16 be removed and claim 16 be allowed.

Claims 17-20 depend from claim 16. Thus, claims 17-20 are allowable for at least the same reasons as claim 16. Therefore, Applicants respectfully request that the rejection of claims 6-8 be removed and claims 17-20 be allowed.

Claim 21 recites an apparatus for performing the method claimed in claim 16. Thus, claim 21 is allowable for at least the same reasons as claim 16. Therefore, Applicants respectfully request that the rejection of claim 21 be removed and claim 21 be allowed.

Claims 22-25 depend from claim 21. Thus, claims 22-25 are allowable for at least the same reasons as claim 21. Therefore, Applicants respectfully request that the rejection of claims 22-25 be removed and claims 22-25 be allowed.

Claim 26 recites a method for processing a packet generated with the method claimed in claim 5. Thus, claim 26 is allowable for at least the same reasons as claim 5. Therefore, Applicants respectfully request that the rejection of claim 26 be removed and claim 26 be allowed.

Claims 27-30 depend from claim 26. Thus, claims 27-30 are allowable for at least the same reasons as claim 26. Therefore, Applicants respectfully request that the rejection of claims 27-30 be removed and claims 27-30 be allowed.

Claim 31 recites an apparatus for performing the method claimed in claim 26. Thus, claim 31 is allowable for at least the same reasons as claim 26. Therefore, Applicants respectfully request that the rejection of claim 31 be removed and claim 31 be allowed.

Claims 32-35 depend from claim 31. Thus, claims 32-35 are allowable for at least the same reasons as claim 31. Therefore, Applicants respectfully request that the rejection of claims 32-35 be removed and claims 32-35 be allowed.

Claim 36 recites a program storage device storing instructions for performing the method claimed in claim 26. Thus, claim 36 is allowable for at least the same reasons as claim 26. Therefore, Applicants respectfully request that the rejection of claim 36 be removed and claim 36 be allowed.

Claims 37-40 depend from claim 36. Thus, claims 37-40 are allowable for at least the same reasons as claim 36. Therefore, Applicants respectfully request that the rejection of claims 37-40 be removed and claims 37-40 be allowed.

Claim 41 recites a program storage device storing instructions for performing the method claimed in claim 16. Thus, claim 41 is allowable for at least the same reasons as claim 16. Therefore, Applicants respectfully request that the rejection of claim 41 be removed and claim 41 be allowed.

Claims 42-45 depend from claim 41. Thus, claims 42-45 are allowable for at least the same reasons as claim 42-45. Therefore, Applicants respectfully request that the rejection of claims 42-45 be removed and claims 42-45 be allowed.

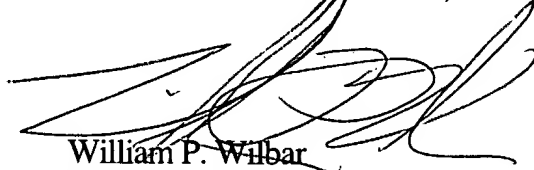
Claim 46 recites an apparatus for performing the method claimed in claim 5. Thus, claim 46 is allowable for at least the same reasons as claim 5. Therefore, Applicants respectfully request that the rejection of claim 46 be removed and claim 46 be allowed.

If the Examiner has any questions regarding this response or the application in general, the Examiner is invited to telephone the undersigned at 775-586-9500.

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